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Interview: Brad Miller explains his legislation to help people facing foreclosure

Congressman Brad Miller, who represents North Carolina's 13th District, has said he is probably ***"the leading critic in Congress of the mortgage lending industry."*** The Raleigh Democrat has introduced legislation for more than five years to rein in predatory lending. Earlier this month, he and Sen. Richard Durbin, D-Ill., announced that to help those facing foreclosure they would seek legislation to allow bankruptcy judges to modify mortgages on primary residences. Ideas editor Elma Sabo asked him about the legislation.

Q. Why are you making the rising foreclosure rate your top priority in the new Congress?

A. Credit Suisse estimates that 8.1 million American families will lose their homes to foreclosure in the next four years. If the recession becomes severe enough, it could be as high as 10.2 million. That's about one in five mortgages going into foreclosure. We are not going to stop the downward spiral of our economy until we stop the collapse of home values. And we are not going to stop the collapse of home values until we get control of foreclosures.

Q. Why not direct troubled home loan holders into some type of federal program that could restructure loans instead of having bankruptcy judges do this?

A. None of the programs to encourage voluntary modifications has worked. Despite the mortgage industry helping design the programs and assuring us that they would modify mortgages left and right if we just enacted that program, it hasn't happened. Until homeowners have some bargaining power and until the lending industry understands that if they don't voluntarily modify, a court will modify for them, we won't see any meaningful change.

Q. What is your response to the mortgage lenders' criticisms of this idea? They say it would end up costing consumers because it would lead to lenders requiring bigger down payments and raising mortgage interest rates.

A. After years of paying absolutely no attention to whether borrowers could repay loans or not, it would not be a bad thing for lenders to pause before they make a mortgage. After six years of hearing their explanation of the kinds of mortgages they were making and what they were doing to deal with the problem, I don't trust what they say anymore.

Independent academic studies have repeatedly shown that there is absolutely no basis for the claim that allowing bankruptcy courts to modify home mortgages will lead to prohibitively bigger down payments and significantly higher interest rates for homeowners. The mortgage lenders are making up that stuff, pulling it out of thin air.

Q. Would allowing this help or hurt the larger economy? Some might argue that providing judges this power would cause banks to have to devalue properties, so that properties they now have on their books as assets would then become liabilities and that, in turn, would cause them to become bankrupt.

A. A change in the bankruptcy laws will not cause any bank to become bankrupt, but it may reveal some to be bankrupt, which is a necessary step in our economic recovery. We need to figure out which banks are cooking their books. It will be much harder for banks to carry mortgages on their books for far more than the mortgages are really worth if the homeowner can force the issue by seeking judicial modification. The sooner we find out which banks are cooking their books and are really insolvent, the better for all of us.

Q. Why not link financial bailout money to this measure? Meaning, that if Bank X accepts bailout money, it has to allow this type of home mortgage restructuring?

A. I'm very frustrated that the Bush Treasury Department is doing so little to push the modifications that were supposed to be part of the plan passed in the fall. Allowing bankruptcy courts to modify mortgages will light a fire under lenders to agree to real modifications - not just a payment schedule that will lead inevitably to further default, but modifications of principal and the interest rate.